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ATTORNEY FOR DEFENDANT
STATE OF MONTANA

**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION**

B.Y.O.B., Inc., a Montana Corporation,
JIM GLANTZ, Individually and as
PERSONAL REPRESENTATIVE OF
THE ESTATE OF DONNA GLANTZ,
Deceased, ON BEHLAF Of The ESTATE
OF DONNA GLANTZ, BARBARA
RILEY, MEADOW LAKE REAL
ESTATE a/b/n of CYA, Inc., GILDO,
LLC, a Montana Limited Liability
Company, BEEZ-NEEZ, Inc., a Montana
Corporation, TERIN GILDIN, NATHAN
GILDEN,

Plaintiffs,

vs.

STATE OF MONTANA, a governmental
entity; THE MONTANA
DEPARTMENT OF REVENUE, a
political subdivision of the State of
Montana; and DOES A – Z,

Defendants.

CV 15-_____ - M

NOTICE OF REMOVAL

Defendant State of Montana gives notice of the removal of this civil action styled *B.Y.O.B, et. al, v. State of Montana, et. al*, Cause No. DV-15-20, from the Montana Twentieth Judicial District Court, Lake County, to the United States District Court for the District of Montana, Missoula Division. In support of this Notice of Removal, Defendant states:

1. On January 29, 2015, Plaintiffs B.Y.O.B. Inc., Jim Glantz, the Estate of Donna Glantz, Barbara Riley, Meadow Lake Real Estate, Gildo, LLC, Beez-Neez, Inc., Terin Gilden and Nathan Gilden filed a Complaint and Jury Demand against Defendants State of Montana, Montana Department of Revenue, and Does A- Z in the Twentieth Judicial District Court of Montana, Lake County, Cause No. DV 15-20. The clerk issued summonses on January 29, 2015. Copies of the Complaint and Jury Demand and the Summons naming the State of Montana are attached as exhibits “A” and “B.”

2. Copies of the Complaint and Jury Demand and Summons naming the State of Montana were hand-delivered to the office of the Attorney General and the Office of the Director of the Department of Administration on March 9, 2015.

3. The Montana Department of Revenue is a Department of the State of Montana, Mont. Code Ann. § 2-15-1301 (2013), not a political subdivision of the State of Montana, and therefore should not be named as a separate defendant from

the State of Montana in this action. *See* Mont. Code Ann. § 2-9-313 (2013). The Montana Department of Revenue nevertheless joins in this removal. Defendant Does have not been served, and their consent is therefore not required.

4. The Complaint alleges that Does A – M, acting under color of state law, deprived Plaintiffs of their Constitutional rights, including their rights to equal protection of the law under the Fourteenth Amendment of the Constitution as well as their rights of association under the First Amendment of the Constitution. Ex. A at p. 6, ¶¶ 54 – 55. These allegations are made under the heading: COUNT VII – CONSTITUTIONAL RIGHTS PURSUANT TO 42 U.S.C. § 1983.

5. The United States District Court for the District of Montana has federal question jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 and it is removable to the Missoula Division of this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

6. Defendant State of Montana shall provide, pursuant to 28 U.S.C. § 1446(d), written notice to all adverse parties of this notice of removal and shall file a copy of this Notice of Removal with the clerk of the Twentieth Judicial District Court of Montana, Lake County, as required by L.R. 3.3(a).

Defendant State of Montana gives notice that further proceedings in this matter before the Twentieth Judicial District Court of Montana, Lake County are

discontinued, and this civil action is removed to the United States District Court for the District of Montana, Missoula Division.

DATED this 8th day of April, 2015.

BY: /s/ Rebekah J. French
Rebekah J. French, Counsel for State of Montana

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2015, a copy of the foregoing **NOTICE OF REMOVAL** was served via EM/ECF and United States mail to the following:

Lee C. Henning
Samantha P. Travis
Rebecca J. Henning-Rutz
HENNING, KEEDY & LEE, P.L.L.C.
723 5th Ave. East, Suite 100
Kalispell, MT 59901

Counsel for Plaintiff

DATED this 8th day of April, 2015.

/s/ Rebekah J. French
Rebekah J. French
Attorney for Defendant State of Montana